



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R10-OAR-2021-0216; FRL-9168-02-R10]

Air Plan Approval; AK; Incorporation by Reference Updates and Permit Program Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving revisions to the Alaska State Implementation Plan (SIP) submitted on November 10, 2020. The revisions update the adoption by reference of certain Federal air regulations and add a pre-approved emission limit option that may be used to permit diesel engine facilities, among other changes. The EPA's approval makes the revisions federally enforceable as part of the Alaska SIP.

DATES: This final rule is effective [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA-R10-OAR-2021-0216. All documents in the docket are listed on the <https://www.regulations.gov> web site. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information or other information the disclosure of which is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available at <https://www.regulations.gov>, or please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information.

FOR FURTHER INFORMATION CONTACT: Kristin Hall, EPA Region 10, 1200 Sixth Avenue (Suite 155), Seattle, WA 98101, at (206) 553-6357, or hall.kristin@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document wherever “we” or “our” is

used, it is intended to refer to the EPA.

Table of Contents

- I. Background
- II. Final Action
- III. Incorporation by Reference
- IV. Statutory and Executive Order Reviews

I. Background

Each state has a SIP containing the control measures and strategies to attain and maintain the national ambient air quality standards (NAAQS). Alaska establishes state air quality regulations in Alaska Administrative Code Title 18 Environmental Conservation, Chapter 50 Air Quality Control (18 AAC 50) and submits these regulations for EPA approval and incorporation by reference into the Alaska SIP in the Code of Federal Regulations (CFR) at 40 CFR part 52, subpart C.

On November 10, 2020, Alaska submitted revisions to the SIP and the EPA proposed to approve the changes on November 17, 2021 (86 FR 64105).¹ The reasons for approval are included in the proposed action and will not be restated here. The public comment period for the proposed action closed on December 17, 2021 and we received no comments. Therefore, we are finalizing the action as proposed.

II. Final Action

The EPA is approving, and incorporating by reference, revisions to the Alaska SIP, submitted on November 10, 2020, as being consistent with Clean Air Act section 110 and part C and D requirements. Upon the effective date of this final action, the Alaska SIP will include the following regulations, state effective November 7, 2020:

- 18 AAC 50.015 Air Quality Designations, Classifications, and Control Regions;
- 18 AAC 50.030 State Air Quality Control Plan, except (a);

¹ The November 10, 2020 SIP submission also requested EPA approval of the Mendenhall Valley and Eagle River Limited Maintenance Plans. We approved these submitted plans in separate actions. Please see our actions published October 25, 2021 (86 FR 58807) and November 9, 2021 (86 FR 62096).

- 18 AAC 50.035 Documents, Procedures and Methods Adopted by Reference, except (a)(6), (a)(9), and (b)(4);
- 18 AAC 50.040 Federal Standards Adopted by Reference, except (a), (b), (c), (d), (e), (g), (j) and (k);
- 18 AAC 50.077 Standards for Wood-Fired Heating Devices, except (h);
- 18 AAC 50.205 Certification;
- 18 AAC 50.230 Preapproved Emission Limits;
- 18 AAC 50.250 Procedures and Criteria for Revising Air Quality Classifications;
- 18 AAC 50.311 Nonattainment Area Major Stationary Source Permits;
- 18 AAC 50.502 Minor Permits for Air Quality Protection;
- 18 AAC 50.540 Minor Permit: Application;
- 18 AAC 50.542 Minor Permit: Review and Issuance; and
- 18 AAC 50.990 Definitions.

III. Incorporation by Reference

In this document, the EPA is finalizing regulatory text in an EPA final rule that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of the regulations described in section II of this preamble. The EPA has made, and will continue to make, these materials generally available through <https://www.regulations.gov> and at the EPA Region 10 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information). Therefore, these materials have been approved by the EPA for inclusion in the SIP, have been incorporated by reference by the EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rule of the EPA's approval, and will be incorporated by reference by the Director of the *Federal*

Register in the next update to the SIP compilation.²

IV. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Clean Air Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves State law as meeting Federal requirements and does not impose additional requirements beyond those imposed by State law. For that reason, this action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

² 62 FR 27968 (May 22, 1997).

- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide the EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

The SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and it will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the *Federal Register*. A major rule cannot take effect until 60 days after it is published in the *Federal Register*. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed and shall not postpone the effectiveness of such rule or

action. This action may not be challenged later in proceedings to enforce its requirements. See section 307(b)(2).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: February 4, 2022.

Michelle L. Pirzadeh,
Acting Regional Administrator, Region 10.

For the reasons set forth in the preamble, 40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart C—Alaska

2. In § 52.70, the table in paragraph (c) is amended by revising the entries for “18 AAC 50.015”, “18 AAC 50.030”, “18 AAC 50.035”, “18 AAC 50.040”, “18 AAC 50.077”, “18 AAC 50.205”, “18 AAC 50.230”, “18 AAC 50.250”, “18 AAC 50.311”, “18 AAC 50.502”, “18 AAC 50.540”, “18 AAC 50.542”, and “18 AAC 50.990” to read as follows:

§ 52.70 Identification of plan.

* * * * *

(c) * * *

EPA-APPROVED ALASKA REGULATIONS AND STATUTES

State citation	Title/subject	State effective date	EPA approval date	Explanations
Alaska Administrative Code Title 18 Environmental Conservation, Chapter 50—Air Quality Control (18 AAC 50)				

18 AAC 50—Article 1. Ambient Air Quality Management				
* * * * *				
18 AAC 50.015	Air Quality Designations, Classifications, and Control Regions	11/7/2020	[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], [INSERT FEDERAL REGISTER CITATION]	
* * * * *				
18 AAC 50.030	State Air Quality Control Plan	11/7/2020	[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], [INSERT FEDERAL REGISTER CITATION]	except (a).
18 AAC 50.035	Documents, Procedures, and Methods Adopted by Reference	11/7/2020	[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], [INSERT FEDERAL REGISTER CITATION]	except (a)(6), (a)(9), and (b)(4).
18 AAC 50.040	Federal Standards Adopted by Reference	11/7/2020	[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], [INSERT FEDERAL REGISTER CITATION]	except (a), (b), (c), (d), (e), (g), (j) and (k).
* * * * *				

18 AAC 50.077	Standards for Wood-Fired Heating Devices	11/7/2020	[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], [INSERT FEDERAL REGISTER CITATION]	except (h).
* * * * *				
18 AAC 50—Article 2. Program Administration				
* * * * *				
18 AAC 50.205	Certification	11/7/2020		
* * * * *				
18 AAC 50.230	Preapproved Emission Limits	11/7/2020	[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], [INSERT FEDERAL REGISTER CITATION]	
* * * * *				
18 AAC 50.250	Procedures and Criteria for Revising Air Quality Classifications	11/7/2020	[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], [INSERT FEDERAL REGISTER CITATION]	
* * * * *				
18 AAC 50—Article 3. Major Stationary Source Permits				
* * * * *				
18 AAC 50.311	Nonattainment Area Major Stationary Source Permits	11/7/2020	[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], [INSERT FEDERAL REGISTER CITATION]	
* * * * *				

18 AAC 50—Article 5. Minor Permits				
18 AAC 50.502	Minor Permits for Air Quality Protection	11/7/2020	[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], [INSERT FEDERAL REGISTER CITATION]	
* * * * *				
18 AAC 50.540	Minor Permit: Application	11/7/2020	[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], [INSERT FEDERAL REGISTER CITATION]	
18 AAC 50.542	Minor Permit: Review and Issuance	11/7/2020	[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], [INSERT FEDERAL REGISTER CITATION]	
* * * * *				
18 AAC 50—Article 9. General Provisions				
* * * * *				
18 AAC 50.990	Definitions	11/7/2020	[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], [INSERT FEDERAL REGISTER CITATION]	
* * * * *				

* * * * *